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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,  
Plaintiff,  
  
v.  
  
DONALD S. TOOMER,  
  
Defendant.

Case No. 2:17-cr-00193-LRH-CWH  
ORDER

Before this Court is the Order of U.S. Magistrate Judge C.W. Hoffman, Jr. (ECF No. 59) entered on August 6, 2018, containing his Report and Recommendation to deny defendant's Motion to Dismiss (ECF No. 28) entered on February 5, 2018. On August 21, 2018, defendant filed his sealed Objections to Judge Hoffman's Report and Recommendation (ECF No. 64) and on September 26, 2018, the government filed its sealed Response in Opposition to Defendant Toomer's Objection to Report and Recommendation (ECF No. 70).

The action was referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 1B 3-1 of the Rules of Practice of the United States District Court for the District of Nevada.

The Court has conducted its *de novo* review in this case, has fully considered defendant's objections, the response of the government, and the pleadings and memoranda of the parties and other relevant matters of record pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 3-1. The Court determines that the Magistrate Judge's

1 Report and Recommendation entered in his Order on August 6, 2018 (ECF No. 59),  
2 should be adopted and accepted.

3 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and  
4 Recommendation with regard to denying dismissal for alleged prosecutorial  
5 vindictiveness (ECF No. 59) entered on August 6, 2018, is adopted and accepted, and  
6 defendant's Motion to Dismiss (ECF No. 28) is DENIED.

7 The court finds no need for an oral argument on this motion and, therefore, IT IS  
8 FURTHER ORDERED that defendant's request for oral argument is DENIED.

9 IT IS SO ORDERED.

10 DATED this 16th day of November, 2018.

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13 LARRY R. HICKS  
14 UNITED STATES DISTRICT JUDGE  
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